

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION

TIMOTHY AUSTIN,

Petitioner,

v.

Case No. 3:20-cv-381-J-34PDB

UNITED STATES DISTRICT  
COURT MIDDLE DISTRICT  
OF FLORIDA,

Respondent.

---

**ORDER OF DISMISSAL WITHOUT PREJUDICE**

Petitioner Timothy Austin, a detainee in the Florida Department of Corrections, initiated this action by mailbox rule on April 10, 2020, by filing a pro se "Petition for Emergency Case Management Hearing for Public Safety Upon Const. of Fla. Article 1 Section 12. Habeas Corpus. Grantable of Right Freely at Cost" (Petition; Doc. 1). In the Petition, it appears Austin is requesting the Court to hold a case management hearing to ensure that once Austin is released from prison the State of Florida (State) will compensate him and ensure his safety because he was once a cooperating witness in a criminal investigation. As Austin is not challenging the fact or duration of his confinement or attacking his underlying conviction, he is not entitled to federal habeas relief. See Preiser v. Rodriguez, 411 U.S. 475, 484 (1973) (noting "that the essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and that the traditional function of the writ is to secure release from illegal custody."). To the extent Austin seeks to enforce any alleged substantial assistance agreement, he should do so

through the state trial court. See generally § 921.186, Fla. Stat. Accordingly, the Petition is due to be dismissed.

Therefore, it is now

**ORDERED AND ADJUDGED:**

1. This case is hereby **DISMISSED WITHOUT PREJUDICE**.
2. The Clerk of Court shall enter judgment dismissing this case without prejudice, terminate any pending motions, and close the case.

**DONE AND ORDERED** at Jacksonville, Florida, this 21st day of April, 2020.

  
MARCIA MORALES HOWARD  
United States District Judge

Jax-8

C: Timothy Austin #122218